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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,362	08/26/2005	Simon Powell	PBT.P0006	3644
7590 03/10/2009				
Edward G Greive Renner Kenner Greive Bobak Taylor & Weber Fourth Floor First National Tower Akron, OH 44308-1456			EXAMINER FRISTOE JR, JOHN K	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 03/10/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/530,362

**Applicant(s)**

POWELL, SIMON

**Examiner**

JOHN K. FRISTOE JR

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments, see page 4, paragraph 2, filed 12/16/2008, with respect to the drawings have been fully considered and are persuasive. The objection of the drawings has been withdrawn.
2. Applicant's arguments, see page 4, paragraph 3, filed 12/16/2008, with respect to 112 rejection have been fully considered and are persuasive. The rejection of claim 2 has been withdrawn.
3. Applicant's arguments filed 12/16/2008 have been fully considered but they are not persuasive. Applicant first argues that Baldwin et al. does not offer a degree of proportional flow,. That argument is not commensurate to the scope of the claims since now proportional flow is claimed. Applicant then argues that Baldwin et al. does not disclose means for moving the valve member so as to provide controlled flow of fluid from the inlet to the outlet, the examiner disagrees. The coil member (38) of Baldwin et al. moves the blade member (47) from an open to a closed position and therefore controls the flow of fluid from the inlet to the outlet. Applicant further argues Lee does not teach an auxiliary member locked over the flexible blade, the examiner disagrees. By located the auxiliary member (42) of Lee et al. over the blade (38) Baldwin et al. could open and close the valve with multiple actuators. Since the following prior art rejections are being maintained, the instant Office action has been made final.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 (as understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Baldwin et al. (US Patent No. 5,139,226).

Baldwin et al. discloses a valve comprising a body (71, see figure 10), a fluid passageway having an inlet (73), an outlet (77). A valve member (98) for inhibiting fluid flow through the passageway, means (83) for moving the valve member (98) for controlling the flow of fluid from the inlet to the outlet. The valve member is in the form of a flexible blade (see figure 12), one end of the flexible blade is mounted at a location remote from the passageway (see figure 1, near 93). The means of moving (83) the valve member is arranged to act on the other end of the blade (see figure 10). A sealing member (the periphery of the inlet, see element 78 that is contact with 98) is provided around the periphery of the inlet (73) and the blade has a degree of stiffness such that it provides a fuse tending to keep the blade in contact with the sealing member.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin et al (US Patent No. 5,139,226) in view of Lee et al. (US Patent No. 4,492,360).

Baldwin et al fails to disclose an auxiliary member is located over the flexible blade, wherein the auxiliary member is in the form of a blade.

Lee et al. discloses an auxiliary member (42) is located over the flexible blade (38), wherein the auxiliary member is in the form of a blade (auxiliary member 42 is same shape as the flexible member/blade 38) for providing a limit arm or leaf spring for limiting the downward or opening displacement of the valve member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an auxiliary member is located over the flexible blade, wherein the auxiliary member is in the form of a blade in order to limit the downward or opening displacement of the valve member as taught by Lee et al.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin et al in view of Lee (US Patent No. 4,492,360) as applied in claims 4-5, and further in view of Tsai (US Patent No. 5,785,295).

The combination of Baldwin and Lee fails to disclose the sealing member is an O-ring.

Tsai discloses a sealing member (321) is an O-ring for sealing the inlet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a sealing O-ring in order to seal the passageway between the inlet and the outlet.

#### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John K. Fristoe Jr./  
John K. Fristoe Jr.  
Primary Examiner  
Art Unit 3753